



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/562,290	06/20/2006	Helen Braven	ATLAS 9452 US	5797
39843	7590	10/20/2009		
BELL & ASSOCIATES 58 West Portal Avenue No. 121 SAN FRANCISCO, CA 94127			EXAMINER MARTIN, PAUL C	
			ART UNIT	PAPER NUMBER
			1657	
			NOTIFICATION DATE	DELIVERY MODE
			10/20/2009	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

abell@bell-iplaw.com
mkaser@bell-iplaw.com
info@bell-iplaw.com

Office Action Summary	Application No. 10/562,290	Applicant(s) BRAVEN ET AL.	
	Examiner PAUL C. MARTIN	Art Unit 1657	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 September 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 19-23 and 25-36 is/are pending in the application.
- 4a) Of the above claim(s) 32-36 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 19-23 and 25-31 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claims 19-23 and 25-36 are pending in this application, Claims 32-36 are acknowledged as withdrawn effectively without traverse in the response of 14 September 2007, Claims 19-23 and 25-31 were examined on their merits.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 19, 25, 26, 27 and 31 remain rejected under 35 U.S.C. § 103(a) as being unpatentable over Hugli (US 6,235,494 B1) in view of Braven *et al.* (US 2005/0221315 A1) for reasons of record set forth in the Prior Actions of 03/17/09 and 09/30/08.

Claims 19, 20, 22, 25, 26 and 27 remain rejected under 35 U.S.C. § 103(a) as being unpatentable over Ludin *et al.* (US 6,495,336 B1) in view of Braven *et al.* (US 2005/0221315 A1) for reasons of record set forth in the Prior Actions of 03/17/09 and 09/30/08.

Claims 19, 20, 22, 25, 26, 28, 29 and 30 remain rejected under 35 U.S.C. § 103(a) as being unpatentable over Nagy *et al.* (2000) in view of Braven *et al.* (US 2005/0221315 A1) for reasons of record set forth in the Prior Actions of 03/17/09 and 09/30/08.

Claims 19-22, 25, 26, 28, 29 and 30 remain rejected under 35 U.S.C. § 103(a) as being unpatentable over Nagy *et al.* (2000) in view of Braven *et al.* (US 2005/0221315 A1) and further in view of Forrest *et al.* (US 4,978,610) for reasons of record set forth in the Prior Actions of 03/17/09 and 09/30/08.

Claims 19, 20, 22, 23, 25, 26, 28, 29 and 30 remain rejected under 35 U.S.C. § 103(a) as being unpatentable over Nagy *et al.* (2000) in view of Braven *et al.* (US 2005/0221315 A1) and further in view of Nicholson *et al.* (US 4,456,337) for reasons of record set forth in the Prior Actions of 03/17/09 and 09/30/08.

Response to Amendment

The Declaration under 37 CFR 1.132 filed 09/17/09 is insufficient to overcome the rejection of claims 19-23 and 25-31 based upon 35 U.S.C. § 103(a) in view of Braven *et al.* (US 2005/0221315 A1) as set forth in the last Office action because:

The Declaration indicates that the inventive disclosure of (US 2005/0221315 A1) was by H. Braven and R. Keay. However, the instant application is a different inventive entity from US 2005/0221315 A, having 3 co-inventors: H. Braven, R. Keay and S. Flower.

The Declaration fails to show that the relevant portions of the (US 2005/0221315 A1) reference (two inventors) originated with or were obtained from applicant (3 inventors). That is, the Declaration fails to indicate that while S. Flower is a co-inventor of the claims in the instant invention, his co-inventorship does not co-extend to the claimed subject matter disclosed in the US 2005/0221315 A reference but that he did contribute to the subject matter disclosed in Braven et al. pertinent to the instant rejection. That is, the contribution of Stephen Flower to what specific claims of the instant application which were not in the Braven *et al.* reference are not described. The broad statements by Mr. Flower that he did not contribute to the Braven *et al.* reference but that he did contribute to claims 1-15, 17 and to pending claims 19-23 and 25-31 (Declaration, Pg. 2, Lines 1-12) are inadequate as they do not indicate that Stephen Flower contributed to the disclosure (but not the claimed subject matter) of the Braven et al. reference and thus that Braven et al. is not by another or alternatively that Stephen Flower did not contribute to one or more claims of the instant application and thus for these claims the Braven et al. reference is not by another.

To effectively overcome the rejection of Claims 19-23 and 25-31 based upon 35 U.S.C. § 103(a) in view of Braven et al. (US 2005/0221315 A1) as set forth in the last Office actions Applicant must submit a Declaration under 37 CFR 1.132 which specifically indicates what instant claims S. Flower contributed to and which claims S. Flower did not contribute to and thus show that the Braven et al. reference is not by another with regard to those claims to which Stephen Flower did not contribute or effectively explain why S. Flower is an inventor of the subject matter found in the USPGPUB which is co-extensive with the instant claims and thus show that this unclaimed subject matter of the reference was in fact invented by the inventive entity of the instant application.

No Claims are allowed.

All claims are drawn to the same invention claimed in the application prior to the entry of the submission under 37 CFR 1.114 and could have been finally rejected on the grounds and art of record in the next Office action if they had been entered in the application prior to entry under 37 CFR 1.114. Accordingly, **THIS ACTION IS MADE FINAL** even though it is a first action after the filing of a request for continued examination and the submission under 37 CFR 1.114. See MPEP § 706.07(b). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to PAUL C. MARTIN whose telephone number is (571)272-3348. The examiner can normally be reached on M-F 8am-4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jon Weber can be reached on 571-272-0925. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 1657

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Paul Martin
Examiner
Art Unit 1657

10/14/09

/Rebecca E. Prouty/
Primary Examiner,
Art Unit 1652